IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

MFA.No. 26 of 2007()

OP(ELE).101/2005 of DISTRICT COURT, MANJERI DT.1.12.2006
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APPELLANT: PETITIONER

V.V.HYDERALI MASTER, AGED 65 YEARS,
S/O.PAREECHI, VELUTHEDATHU PARAMBIL HOUSE,
VATTAKULAM AMSOM DESOM, PONNANI TALUK.

BY ADV. SRI.C.V.MANUVILSAN
SRI.G.SUDHEER (THURAVOOR)
SMT.A.M.MAJIDA

RESPONDENTS: RESPONDENT

IBRAHIM KUTTY AGED 50 YEARS,
S/O.BAPPU MASTER, ANTHOORA VALAPPIL HOUSE,
KALADITHARA, NADUVATTOM, VATTAKULAM AMSOM DESOM,
PONNANI TALUK.

BY ADV. SRI.T.K.SAIDALIKUTTY
SRI.P.A.MOHAMMED ASHROF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.26 OF 2007

Dated 10th July, 2007

JUDGMENT

Koshy,J.

Grievance of the appellant is that O.P.(Election) No.101/2005 was dismissed for non-representation, when the case was called on 1.12.2006. It is the case that counsel for the appellant was from Ponnani which is a place 78 Kms. away from Manjeri. On his way to court, his vehicle got damaged and, therefore, by the time he reached the court hall, the case was dismissed for default. In these circumstances, we set aside the impugned order on payment of cost of Rs.3,000/= to the counsel for the respondent within two weeks from today. If the amount is paid, the impugned order will stand set aside and parties should be heard by the court below on merit. Parties shall appear before the court below on 20.8.2007. Memo regarding payment of cost should be produced before the court below.

The appeal is allowed by way of remand.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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